

1 Francesco Benavides, CSBN 258924  
2 Law Offices of Francesco Benavides  
3 1990 N. California Blvd. Suite 20  
4 Walnut Creek, CA 94596  
5 Tel: (925) 222-7071  
6 Fax: (925) 522-5306  
7 Email: francesco@benavidesdisabilitylaw.com

8 Attorney for Plaintiff  
9 ANNA MARIE SWELEY

10 UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF CALIFORNIA  
12 FRESNO DIVISION

13 ANNA MARIE SWELEY,

14 Plaintiff,

15 v.

16 MARTIN J. O'MALLEY,  
17 Commissioner of Social Security,

18 Defendant.

Case No. 1:24-cv-00126-SKO

STIPULATION AND UNOPPOSED  
MOTION FOR THE AWARD AND  
PAYMENT OF ATTORNEY FEES AND  
EXPENSES PURSUANT TO THE  
EQUAL ACCESS TO JUSTICE ACT;  
ORDER

(Doc. 15)

19  
20 IT IS HEREBY STIPULATED by and between the parties through their  
21 undersigned counsel, subject to the approval of the Court, that Plaintiff be awarded  
22 attorney fees and expenses in the amount of \$1,992.37, under the Equal Access to  
23 Justice Act (EAJA), 28 U.S.C. § 2412(d), and no costs under 28 U.S.C. § 1920. This  
24 amount represents compensation for all legal services rendered on behalf of Plaintiff by  
25 counsel in connection with this civil action, in accordance with 28 U.S.C. §§ 2412(d),  
26 1920.  
27  
28

1 After the Court issues an order for EAJA fees to Plaintiff, the government will  
2 consider the matter of Plaintiff's assignment of EAJA fees to counsel. Pursuant to  
3 *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability  
4 to honor the assignment will depend on whether the fees are subject to any offset  
5 allowed under the United States Department of the Treasury's Offset Program. After  
6 the order for EAJA fees is entered, the government will determine whether they are  
7 subject to any offset.

8 Fees shall be made payable to Plaintiff, but if the Department of the Treasury  
9 determines that Plaintiff does not owe a federal debt, then the government shall cause  
10 the payment of fees, expenses and costs to be made directly to Plaintiff's counsel,  
11 Francesco Benavides, pursuant to the assignment executed by Plaintiff.

12 This stipulation constitutes a compromise settlement of Plaintiff's request for  
13 EAJA attorney fees and does not constitute an admission of liability on the part of  
14 Defendant under the EAJA or otherwise. Payment of the agreed amount shall  
15 constitute a complete release from, and bar to, any and all claims that Plaintiff and/or  
16 Francesco Benavides, including the Law Offices of Francesco Benavides, may have  
17 relating to EAJA attorney fees in connection with this action.

18 This award is without prejudice to the rights of Francesco Benavides to seek  
19 Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings  
20 clause provisions of the EAJA.

21  
22 Respectfully submitted,

23  
24 Dated: April 22, 2024

25 Law Offices of Francesco Benavides

26 By: /s/ Francesco Benavides  
27 FRANCESCO P. BENAVIDES  
28 Attorney for Plaintiff

Dated: April 22, 2024

PHILLIP A. TALBERT  
United States Attorney  
MATHEW W. PILE  
Associate General Counsel  
Social Security Administration

By: Christopher Vieira\*  
CHRISTOPHER VIEIRA  
Special Assistant U.S. Attorney  
Attorneys for Defendant  
(\*Permission to use electronic signature  
obtained via email on April 19, 2024).

**ORDER**

Based upon the parties' foregoing Stipulation and Unopposed for the Award and Payment of Equal Access to Justice Act Fees and Expenses (Doc. 15), **IT IS ORDERED** that fees and expenses in the amount of \$1,992.37 as authorized by 28 U.S.C. § 2412, and no costs under 28 U.S.C. § 1920, be awarded subject to the terms of the Stipulation.

IT IS SO ORDERED.

Dated: April 22, 2024

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE